

*United States Court of Appeals  
for the Second Circuit*



**APPELLANT'S  
APPENDIX**



THE UNITED STATES COURT  
OF APPEALS

for the FEB 25 1974  
SECOND CIRCUIT

SHERWIN S. MINKES,

APPELLANT

| DOCKET NUMBER

74-1060

-VERSUS -

XEROX CORPORATION,

APPELLEE

APPENDIX FOR THE APPELLANT

DESCRIPTION OF PAPER

COURT INDEX NUMBER

I. COMPLAINT

1

II. LETTER FROM SS. MINKES  
TO JUDGE LASKER dated  
JULY 26, 1973

14

III. LETTER TO JUDGE LASKER  
FROM S.S. MINKES dated  
OCT 8 '73

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IV. MEMORANDUM # 40127 by JUDGE LASKER

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V INDEX TO RECORD ON APPEAL

A

SHERWIN S MINKES, PRO SE

P.O BOX 433

KENDALL, FLORIDA 33156

TELEPHONE - 305-665-1744

**PAGINATION AS IN ORIGINAL COPY**

United States District Court  
for the Southern District of New York

SHERWIN S. MINKES

73 CIV. 1781

-v-

XEROX CORPORATION

① I am suing because of threats and knifing in lower back portion of my brain by MRS. KATHLEEN PALMER, customer assistant of XEROX CORP., and knifing in lower back of MY BRAIN by JACK LEVIN, ZONE SALES MANAGER OF XEROX CORP., BETWEEN 3:00 P.M. AND 5:00 P.M. ON WEDNESDAY, DECEMBER 17, 1969, when I was an employee of XEROX CORP with the title meter card coordinator.

THE THREATS began after MR. GEORGE BLOOM, ZONE ADMINISTRATIVE MANAGER gave a 2 finger signal to GERRI WOLFE, customer assistant, in NOVEMBER, 1969, in the office at 200 East 42nd Street saying "I don't want to take that (looking at me) up there (meaning 666 FIFTH AVENUE where we were moving after JAN. 1970). LOOKED AT ME AND NODDED YES. THREATS WERE MADE BY DAN DURANTE, AN OFFICE MANAGER, AND CHRIS HARRAN, CUSTOMER ASSISTANT, SAYING "YOU'D BETTER SHUT YOUR MOUTH" TO ME. RAY CLYNE, SALES MANAGER, BROKE UP A CARD BOARD BOX and looking at me said "If there's a fourth your the fifth."

(1)

E. C. JACKIE  
Deputy Clerk

I also allege a direct connection between Xerox Corporation and the knifing in the upper back left portion of my brain by MRS TOBY KATZ at ~~5214~~ 5214 12th AVENUE ON FRIDAY EVENING DECEMBER 19, 1969 between 7:00 AND 9:00 P.M. in the presence of her HUSBAND MR. REUBEN KATZ while I was SITTING AT THE KITCHEN TABLE. SHE DID THIS AFTER A GOOD BROKEN RING SIGNAL ON THE TELEPHONE. DEBBIE, a customer ASSISTANT AT XEROX CORPORATION, made mention that this would happen to me only 2 weeks before at 200 E. 42nd STREET in the office of XEROX CORP. I was FURTHER ATTACKED ON JANUARY 16, 1970 by Adrian Kirk at 666 Fifth Avenue, NEW YORK CITY with a sharp instrument entering the lower back portion of my brain at about 12:00 P.M. KAREN ETKIND, GERRI WORF AND KATHLEEN PALMER, all customer assistants were watching this.

THE BLOW BY MRS TOBY KATZ KNOCKED OUT THE REPRODUCTIVE FACILITY OF MY LEFT BRAIN WITH MY RIGHT TESTICLE.

THE WITNESSES TO THE ATTACK BY KATHLEEN  
PALMER, AFTER LEAVING THE OFFICE OF MR RAY CYNE,  
were JUDY WHITESELL AND JUNE WELD  
CUSTOMER ASSISTANTS AT 200 E. 42nd ST.

The witness to the cutting of the back  
OF my head by JACK LEWIN just  
BEFORE 5:00 P.M DEC. 17, 1969, was  
MR JOHN McCOVERAL, SALES MANAGER.

I am suing FOR TWENTY FIVE MILLION DOLLARS

② I FILED THE COMPLAINT AND SUIT WITH THE U.S.  
DISTRICT COURT IN MARCH, APRIL AND MAY OR 1970  
but didn't have the money to pursue the case.

The COURT HAS JURISDICTION BECAUSE  
THIS OCCURRED IN NEW YORK CITY while  
I was A RESIDENT OF BROOKLYN, NEW YORK  
353 EAST 34TH STREET, and the Lawsuit IS  
OVER \$10,000.

③ SHERWIN S. MINKES

10590 S.W. 77 AVENUE  
MIAMI, FLORIDA 33156

④ XEROX CORPORATION

666 FIFTH AVENUE  
NEW YORK, NEW YORK

⑤ 25 million <sup>DOLLARS</sup> would be remedy for this  
CIVIL ACTION AGAINST XEROX CORPORATION

~~SECRET~~

THE PRINCIPALS IN THE CASE

ARE XEROX CORPORATION XEROX CORPORATION  
66 FIFTH AV<sup>G</sup> N.Y.C.

① GEORGE BLOOM, NOW AN EMPLOYEE OF  
ITT

② DAN DURANTE NOW IN  
XEROX - WHITE PLAINS, NEW YORK

③ BILL HAGER - THEN ASST OFFICE MGR  
XEROX - WHITE PLAINS, NEW YORK

④ KATHLEEN PALMER - CUSTOMER ASST (CA)

⑤ ADRIAN KARLIS - CA - XEROX

⑥ KAREN ETKIND - CA - XEROX

⑦ JUDY WHITESELL - CA - XEROX

⑧ GERRI WOLFE - CA - XEROX

⑨ CHRIS HARAN - CA - XEROX

⑩ RAY CLYNE - SALE MANAGER - XEROX

⑪ GEMMA McGOVERN - SALES MANAGER - XEROX

⑫ MRS. TOBY KATZ

1425 51ST STREET APT. F4  
BROOKLYN, NEW YORK

⑬ MR. REUBEN KATZ

1425 51ST STREET APT F4  
BROOKLYN, NEW YORK

⑭ DEBBIE - CA - XEROX CORP.

⑮ JUNE WELD - CA XEROX CORP.

SWEARN TO BEFORE ME THIS

17<sup>th</sup> DAY OF April, 1970

Sherwin & Minke  
SHERWIN S. MINKE

and swearing in the name of God I do  
this truth

Sherwin & Minke

10540 S.W. 17<sup>th</sup> Avenue

Miami, Florida 33156

THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
~~NEW YORK, NEW YORK 10002~~

RE: 73 Cr 1781 ~~JURISDICTION~~ XEROX

YOUR HONOR JUDGE LASKER:

JULY 14, 1973

I AM IN RECEIPT OF A LETTER  
DATED JULY 23, 1973, FROM THE  
CHAMBERS OF JUDGE LASKER.

ASKING XEROX CORPORATION IF  
THEY WISH TO FURTHER EXPAND  
ON THE POINTS OF DEFENSE  
TO AVOID GOING TO TRIAL IN  
OPPOSITION TO MY MOTION FOR  
TRIAL. THE LETTER HAD A

PRINTED NAME CAROLINE MARTIN  
LAW CLERK TO JUDGE LASKER. I AM  
NOT CERTAIN WHETHER JUDGE LASKER  
OR CAROLINE MARTIN ORIGINATED  
THE LETTER. BE THAT AS IT  
MAY, I, SHERWIN S. MINKES  
STILL MAKE A MOTION FOR TRIAL  
ON THESE GROUNDS IN ANSWER TO  
MAIN POINTS OF DEFENSE BY XEROX  
CORPORATION.

FIRST DEFENSE - ON LACK OF JURISDICTION:  
MAIN CRIMES TOOK PLACE IN NEW YORK  
CITY AND I AM SUING ON DIVERSITY  
FROM FELONIES CHARGED AND FILED  
WITH DISTRICT ATTORNEY'S OFFICE  
OF NEW YORK AND NEW YORK  
CRIMINAL COURT AND ~~BROOKLYN~~ OF  
NEW YORK CITY AND BROOKLYN, NEW  
YORK.

SECOND DEFENSE - COMPLAINT FAILS TO  
STATE CLAIM UPON WHICH RELIEF

CAN BE GRANTED. COMPLAINT STATES,  
I AM SUING FOR 25 MILLION DOLLARS  
FOR THREATEN ON MY LIFE BY  
CERTAIN NAMED AGENTS AND  
EMPLOYEES OF XEROX CORPORATION  
FOLLOWED BY ATTACKS ON ME  
BY NAMED INDIVIDUALS WITNESSED  
BY NAMED INDIVIDUALS OF XEROX.

CD THIRD DEFENSE: THIS ACTION  
BARRED BY APPLICABLE STATE  
OF LIMITATIONS; THE SUIT  
WAS FILED IN APRIL OF 1973  
WITHIN 3 YEARS OF THE STATE  
UNEMPLOYMENT INSURANCE  
HEARING IN NEW YORK CITY  
IN JULY, 1970 where MR.  
JUDY WHITESIDE UNDER  
OATH TESTIFIED TO THE TRUTH  
OF MY CHARGES AGAINST  
XEROX CORPORATION EMPLOYEES.  
ALSO AS LATE AS FEBRUARY, 1972  
AT THE AQUARIUS LOUNGE  
IN MIAMI, FLORIDA AT 820 SW  
42nd AVENUE I RECOGNIZED A  
WOMAN WHO WAS CHRIS HARAW, A WOMAN  
OF XEROX NAMED IN MY COMPLAINT, HARASSING  
ME WITH OTHER MEN UNKNOWN TO ME  
AND ANOTHER WOMAN ALSO THIS  
COMPLAINT WAS FILED IN APRIL OF 1970 <sup>PROSE</sup> IN CLERKS OFFICE.

TRULY YOURS

SHERWIN S. MINKES 10590 SW 77AVE.  
MIAMI, FLORIDA  
33151

SHERWIN S. MINKES  
v. PLAINTIFF

XEROX CORPORATION ET AL  
DEFENDANT

CASE NO. 73 CIV 1781  
JUDGE LASKER

DEFENDANT NAME SHOULD READ XEROX CORPORATION ET AL  
BEING THAT THE DEFENDANTS LAWYERS

SIMPSON THATCHER & BARTLETT SEEM TO BE PREOCCUPIED  
WITH STATUTE OF LIMITATIONS AND SEEM TO BE

CONFUSED AS TO THE CHARGES FROM WHICH

THE 25 MILLION DOLLAR LAWSUIT DERIVES

THE FOLLOWING IS SUBMITTED BY THE PLAINTIFF

FOR EXPANSION AND CLARIFICATION OF CHARGES

THE LAWSUIT DERIVES FROM CHARGES OF MENTAL AND  
PHYSICAL TORTURE AND CRUELTY AND INJURY  
AND CONSPIRACY TO COMMIT MURDER AGAINST PLAINTIFF

SHERWIN S. MINKES OVER A PERIOD OF FOUR YEARS

FROM MAY, 1969 TO FEBRUARY, 1973 ON MARCH, FLORIDA

AT 820 LE JEUNE ROAD WHICH PLAINTIFF WAS HARASSED

BY MISS CHAS HARRAN WHO THREATENED HIM IN VIOLATION OF  
Article 1 of the Amendment to the U.S. Constitution  
Sherwin S. Minkes I.P.A. 58

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-X

SHERWIN S. MINKES,

#40127  
Plaintiff,

-against-

XEROX CORPORATION,

Defendant.

-X  
73 Civ. 1781

MEMORANDUM

U.S. DISTRICT COURT  
FILED  
DEC 14 1973 PM '73  
SHERWIN S. MINKES

APPEARANCES:

SHERWIN S. MINKES, ESQ.  
P. O. Box 433  
Kendall, Florida 33156  
Attorney Pro Se

SIMPSON THACHER & BARTLETT, ESQS.  
One Battery Park Plaza  
New York, New York 10004  
Attorneys for Defendant  
OF COUNSEL: ROLON W. REED, ESQ.

MURDOCH  
DEC 19 1973

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LASKER, D.J.

This action seeks damages for injuries and mental distress allegedly suffered by plaintiff on three occasions in 1969 and 1970, when employees of defendant are claimed to have "knifed" and "attacked" him. Defendant has moved to dismiss the complaint as time-barred by the Statute of Limitations.

Plaintiff, who appears pro se, does not set forth in his pleadings the basis for our jurisdiction, but since he and defendant are residents of different states, we will assume he alleges diversity jurisdiction. R

Since all the acts complained of are alleged to have occurred in this state, New York law establishes the applicable limitations period. Guaranty Trust Co. v. York, 326 U.S. 99 (1945), Gleason v. United States, 458 F.2d 171 (3rd Cir. 1972). i  
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It is unclear what theory of liability plaintiff alleges but a generous reading of the complaint suggests that the action sounds either in assault and battery, or personal injury resulting from defendant's alleged negligence. The New York Statute of Limitations for an assault and battery is one year, C.P.L.R. §215(3), and for an action to recover on a personal injury, three years, C.P.L.R. §214(5). T  
g

Since the most recent act complained of allegedly took place on January 16, 1970, and the complaint was filed over three years later, on April 23, 1973, the action is time-barred under either theory. We note that plaintiff filed with the court, on October 9, 1973, a document for the declared purpose of "expansion and clarification of charges, which complains of additional acts by defendant allegedly occurring in 1973. Since this paper was filed six months after defendant's answer, and since plaintiff has not moved this court to amend and supplement his complaint pursuant to Rule 15, Federal Rules of Civil Procedure, we decline to consider it, to be an amendment to the complaint.

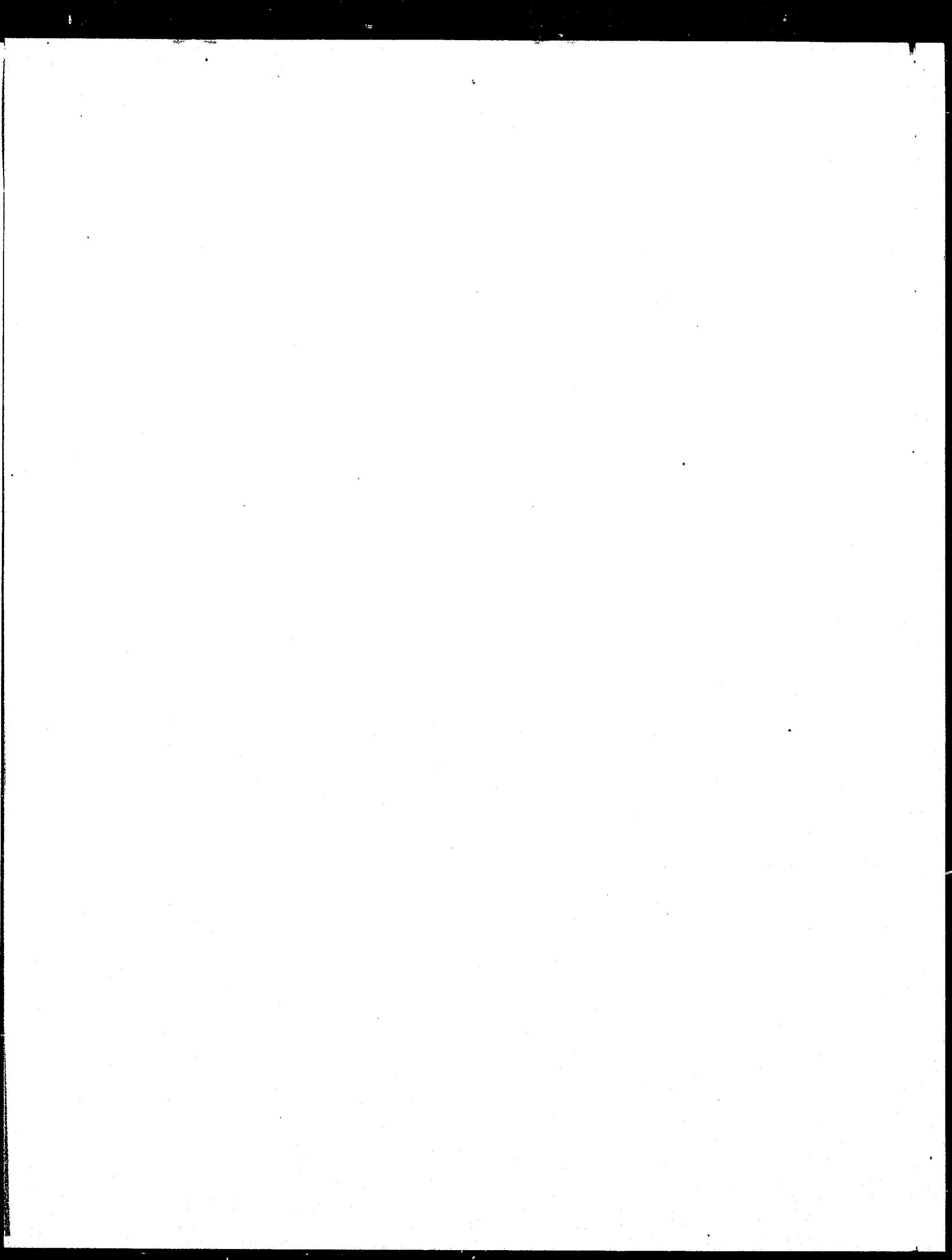
For the foregoing reasons, the motion to dismiss is granted.

It is so ordered.

Dated: New York, New York  
December 12th, 1973.

Wendell G. Ceter

U.S.D.J.



UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

SHERWIN S. MINKES,

Plaintiff

vs

XEROX CORPORATION,

Defendant.

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF  
NEW YORK.

CASE NO. 73 Civ 1781

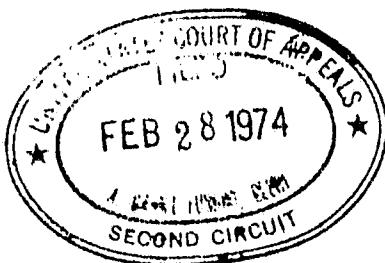
JUDGE Lasker

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